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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

JERRY D. OLDS
State Engineer/Division Director

July 26, 2007

Fred Lewis, Chairman
Lower Jordan River Distribution System
3011 S Orchard Dr
Bountiful UT 84010

RE: Commissioner Retirement

Dear Fred:

I have received several letters from water users on the Lower Jordan River Distribution System expressing support for the work that Lynn Jensen is doing as water commissioner and concern that he would be required to retire.

We have thought the issue over and have concluded there should be a provision in the rules for exceptional situations where a person might continue in the position of water commissioner past his / her 75th birthday. Enclosed please find a copy of the provision that will be included in the rules. There has been an unforeseen administrative delay so the rules will not be published in the state register until mid-August.

The provision would allow Lynn to continue as commissioner until his 79th birthday, which will be on November 20, 2009. I realize the provision does not provide an open-ended opportunity for Lynn to continue as commissioner without limit, however, it would allow him to continue for an additional two years.

To extend Lynn's appointment as water commissioner, we need to receive the written request, as set forth in the provision, prior to the 2008 Annual Meeting with the Lower Jordan River Distribution System.

If you have any questions about the extension provision, please contact me by phone at (801) 538-7380 or by e-mail at LeeSim@utah.gov.

Sincerely,

Lee H. Sim, P.E.
Assistant State Engineer
Field Services Section

cc: Lynn Jensen



(4) The Commissioner shall be appointed for a term of four years in accordance with Subsection 73-5-1(1)(a).

(a) A new four-year term shall commence with each appointment.

(b) The four-year term shall commence at the Annual Meeting or other Distribution System meeting or Committee meeting wherein the Commissioner appointment recommendation was made to the State Engineer.

(c) The four-year term shall run until the Annual Meeting or Committee Meeting held during the fourth year following the Commissioner's appointment.

(d) Regardless of the number of years remaining in a term, a Commissioner's term of appointment will terminate at the Annual Meeting prior to the Commissioner's 75th birthday.

(e) In exceptional situations, the State Engineer may extend a person's appointment as water commissioner to one additional term beyond the person's 75th birthday or until age 79 (whichever comes first). The decision to extend the person's appointment for one additional term must be based on consideration of a written request signed by at least five or a majority (whichever is less) of the water users of the water distribution system. The request must include the following:

(i) An attestation that the person currently demonstrates that he/she is physically and mentally capable of adequately performing the water commissioner duties;

(ii) An explanation why the replacement of the water commissioner would pose a burden and a hardship on the water distribution system; and

(iii) The steps that will be taken by the water users to resolve the concerns described in (ii) above by the end of the extended appointment.

(f) If a person is appointed as water commissioner to an extended term beyond his/her 75th birthday, that appointment will be reviewed with the water users on a year-by-year basis at the annual distribution meeting. If, as a result of that review, the State Engineer determines that the person is no longer physically or mentally capable of adequately performing the water commissioner duties, the person's appointment as water commissioner will be ended.